IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

MFA.No. 202 of 2002(E)

OPMV.2097/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
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APPELLANT: 2ND RESPONDENT:

NATIONAL INSURANCE COMPANY LIMITED
PALA NOW REPRESENTED BY ITS ASSISTANT
ADMINISTRARIVE OFFICER, REGIONAL OFFICE,
AJAY VIHAR, M.G. ROAD, KOCHI-16.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS: PETITIONERS & 1ST RESPONDENT:
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1. DEEPAK BHADRAN (MINOR), REPRESENTED
BY HIS NEXT FRIEND R. BABU RAJ,SUKUMARI SADANAM,
PULICKAL KAVALA, VAZHOOR P.O.,
KOTTYAM DISTRICT.

2. SANDEEP BHADRAN (MINOR), REPRESENTED
BY HIS NEXT FRIEND R. BABU RAJ, DO. DO.

3. B. BHADRAN, BHADRA BHAVAN, METTUPALAYAM
ROAD, COIMBATORE.

BY ADV. SRI.P.BABU KUMAR --- R1 & R2

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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ORDER ON CMP NO. 998/2002 IN MFA NO. 202/2002 E.

DISMISSED

25/07/2007. **SD/- J.B.KOSHY, JUDGE.**
SD/- K.P.BALACHANDRAN, JUDGE.

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J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 202 of 2002

Dated this the 25th day of July, 2007

Judgment

Koshy, J.

A 33 year old lady died in a motor accident. Her two minor children applied for compensation of Rupees Three lakhs. Total compensation awarded by the tribunal is Rs.1,72,600/-. Liability of the insurance company is not disputed. This appeal is filed by the insurance company only questioning the quantum of compensation.

2. Main contention is that the accident occurred due to the negligence of her own husband and, therefore, one-third of the compensation has to be deduced. Consequently, it was contended that 17 was taken as the multiplier taking the age of the deceased. Since the claimants are minor children, only 15 can be taken as the multiplier.

3. The two minor children lost their mother due to the accident. Loss of their mother cannot be estimated in terms of money. They lost not only their pecuniary support, but, motherly love, affection, care etc. Only Rs.900/- was taken as the monthly loss of

dependency. Apex Court in Latha Wadhwa and others v. State of Bihar and others ((2001) 8 SCC 197) held that in the absence evidence regarding income, considering the services of the house wife to the family, Rs.3,000/= can be taken as loss of dependency. Here, dependency loss only to two small children was taken into account. For a 33 year old mother of two infants, only compensation awarded is Rs.1,72,600/-. Considering the total amount of compensation awarded and also considering the facts and circumstances of the case, we are of the opinion that the tribunal has awarded just and reasonable compensation and hence we dismiss the appeal.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A.NO.202/2002

JUDGMENT

Dated:25th July, 2007